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THE IDEA OF JUSTICE IN POLITICAL ECONOMY.*

Is there a just distribution of economic goods? Or should there be? This is a question which is raised again to-day, a question which has been asked as long as human society and social institutions have existed. The greatest thinker of ancient history asked the question and thousands after him have repeated it, sages and scholars, great statesmen and hungry proletarians, thoughtful philanthropists and enthusiastic idealists.

To-day the question seems less opportune than ever. Even those who pride themselves on their idealism declare it to be one of the useless questions which nobody can answer.

Aristotle's ideas of distributive justice are looked down upon as antiquated and set aside by the progress of science. Comparing superficially the phenomena of nature with the

[* This paper was first printed in Schmoller's *Jahrbuch für Gesetzgebung, Verwaltung, und Volkswirtschaft* Vol. I of the New Series 1881. As it expresses the matured views of the leader of the historical school in Germany upon a most important topic, it seemed worth while to present it in an English dress. EDITORS.]

social processes, Darwin's theory of the struggle for existence, which permits the strong to oppress the weak and excludes all possibility of a just distribution of earthly possessions, is brought into play. Many political economists also disregard the question, the more so the further they are removed from philosophical inquiries, and the more they delve into special questions remaining, despite many concessions to modern schools, in their fundamental views in the beaten paths of English and German dogmas, which know no other categories than demand and supply. They have, as a rule, a vague, half-conscious feeling that socialism demands a juster distribution of goods, and hence the conservative citizen and friend of order has no choice but to oppose this idea. Those who harbor such thoughts and feelings place themselves, it is true, in the sharpest contrast to the great founders of modern social science.

No one was ever more convinced that his proposed reforms would effect a more just or indeed an absolutely just distribution of goods than Adam Smith or Turgot, or their sincere followers. Faith in the justice of its demands was the backbone of the economics of natural law. As a consequence of "natural freedom and justice," Adam Smith requires freedom of migration and trade. To the greatest disciple of Adam Smith, for thus have Ricardo's ideas been recently correctly summarized, free individual competition appears to be truest justice to all laboring humanity. This is not accidental. No great social or economic reform can conquer the sluggish resistance which opposes it by merely showing its utility. Only when it can be made to appear that what is demanded is the demand of justice, does it inflame and move the masses. For years I have watched in public discussions and in economic publications when and where the question of justice was drawn into economic matters, and I have found that involuntarily it occurs almost everywhere. In discussing the bank question, the opponent of unsecured notes declares them to be an injustice; when duties are proposed, the free-trader

claims first that they are unjust, then immoral, and only in the third place that they are economically harmful. In all discussions about the change in the German customs policy of 1878, both sides tried to prove that what the opponent desired especially injured the working man and the small capitalist, and thus affected in the most unjust way the distribution of income and wealth. A well-known politician, who declares the discussion of justice in the distribution of income and wealth to be superfluous, falls into the same mistake with which he reproaches his opponents, in his polemic against Marx. He declares the present distribution of wealth in Germany to be legitimate, because it was not the possession of colonies, not the work of slaves, but the honest labor of German citizens which created this wealth. He thus unconsciously calls attention quite correctly to the central idea which to-day governs the popular mind in regard to the just distribution of wealth. A leading speaker of the free-traders, in the Reichstag, said that to-day the naive advocacy of low wages dare no longer venture into the light. To-day we consider conditions economically sound only when they guarantee to each participant in the work a just participation in the earnings. And he adds: "The economic ideal is reached when the greatest production and the most uniform distribution among the participants of the profits earned coincide."

Whether a just distribution of goods exists in reality or not, a question which for the present I will leave unanswered, still it is always spoken of, there is a general belief in it; this belief is speculated upon, and it has its practical consequences.

This brings us to the correct formulation of the question with which we must begin. We would not from any principle whatsoever logically deduce a formula whose strict application would at all times produce justice; we would simply and modestly put the question, How does it happen that economic transactions and social phenomena so often

bring forth a favorable or adverse criticism which asserts that this is just, that unjust? When we have a correct answer to this, then it will be easy to draw further conclusions and to decide what force, weight and influence this approving or disapproving judgment will exercise retroactively on the social and economic phenomena.

I.

Even he who reduces all human impulses and actions to the feelings of pleasure and pain must admit that, as far as we know human nature, there are, besides lower impulses, higher intellectual, æsthetic and moral ones. They give to life those ideal aims, from them grow those conceptions which accompany and influence all human life, all actions, all institutions, as ideal visions of what ought to be. Should we call the essence of what ought to be, the abstract Good, the abstract Just would be part of it. Justice is a human virtue. It has been called the virtue of virtues. It is the permanent habit of mankind to adapt its actions to the ideas which we call the abstract Just. The Just *per se*, anything absolutely just, is found in reality as little and as seldom as anything absolutely good. The Just is always an ideal conception, to which reality may approach, but which it will never attain; the ethical judgment that an action or the deeds of a man are just always affirms only that his deeds correspond to an ideal conception, and one single action may perhaps completely do this; but a man's whole life, society as a whole and its actions can only approach it. What kind of an action do we call just? The word is used in different senses. We often use it merely to indicate that the individual is conforming to the laws of the whole, that his actions are in accord with positive law. We use it also in the much broader sense to describe his actions, not so much as corresponding to positive law as to its ideals. We oppose a right that ought to be—as the just—to the positive law, judge the latter

by the former, and call actual law unjust in so far as it does not correspond to this ideal. The conceptions which guide us herein, and from which we derive our idea of the just, are by no means simple; on the one hand the peculiar nature of legal prescriptions, being certain formal rules of social intercourse, and on the other the ideal aims of social life which determine the material contents of law, combine to create this ideal. Conceptions of the perfect commonwealth and of the perfect individual are associated in it. When we speak of what is just in a narrower sense, when we use the word not as it is used in schools, but in the daily usage of common speech, we consider only one of these conceptions, or better, only one of these co-operating spheres of conception. When we speak of a just judge, a just punishment, or just institutions, we usually conceive of a society, a number of people, a comparison of them, and a fair distribution of good and of bad, of that which causes pain and pleasure, measured by uniform objective standards. The specific conception of justice, the one which principally interests us here, is that of justice in distribution; it always presupposes the proportionality of two opposite quantities, one of human beings and one of goods which are to be distributed. We necessarily classify in series, according to objective characteristics, every multiplicity of persons which appears to us in some respect as a unity; and the ideal conception of what ought to be, demands the distribution of goods and evils according to this classification. By this standard our ideal always measures reality. Our moral judgment is always active in estimating the actions of men, their vices as well as their virtues and their achievements—that is in comparing and classifying them. Our social instinct is ever active in fixing the relation of the individual and his doings to the whole of the community, of the State and of humanity, in measuring and locating them accordingly. With relentless necessity the conviction always governs us that this classification must determine the distribution of

honors and political influence, of position, of incomes and punishments. The similar should be treated alike, the dissimilar unlike. It is a reciprocity of human actions which we demand. The maintenance of reciprocity appears just, its disregard unjust. In an unjust proportion one part obtains too much, the other too little. The unjust usurps too much of the good to be distributed, the unjustly suffering receives too little.

We call an election system just which distributes political influence according to individual ability and merit in state and community. We call a penal code just which, in spite of the manifold variety of misdemeanors and crimes, in spite of the seeming incomparability of the different punishments, has found a uniformly weighing system which parallels offences and punishments in accordance with public sentiment. We speak of a just gradation of salaries, of a just promotion of officers in every stock company, in every railroad, as well as in the army, and in the hierarchy of State officials. We speak of a just distribution of taxes, of a just gradation of wages, of just profits, of a just interest on loans. And always there is the same conception in the background: men are grouped and classified according to certain characteristics, qualities, deeds and accomplishments, descent and prosperity. Burdens and advantages should correspond to these classes.

The profit of an undertaking is said to be justly higher than the rate of interest, because a greater risk and an indemnity for labor are therein involved, both of which are foreign to interest. Interest on capital is just because the lender foregoes a possible profit or enjoyment, because the borrower is in a much worse position without this aid, and because for the service of the one a consideration from the other seems just. The high earnings of the well-known physician or lawyer are just, such is Adam Smith's argument, because of the large number who go to great expense in their studies; many have very small incomes; the chosen, able ones are thus in a manner compensated therefor.

Every house-wife, every servant girl, daily and hourly thinks this price and that unjust, and this always on the ground of comparisons, classifications and valuations. Most important, however, is the judgment of the justice or injustice of the condition of social classes in general.

Aristotle calls slavery just when master and slave are by nature as different as soul and body, as governing will and external instrument. Then, he says, it is a natural, intrinsically justified slavery; the external legal relation of society corresponds to human nature.

Exactly the same can be said of all social gradations and classifications. We feel them to be just as far as we find them in accord with our observations of similar or dissimilar qualities of the classes in question. The public mind has never, apart from times of error and excitement, begrudged honor, riches and position to those whose actions, whose abilities correspondingly excelled. It found fault with the condition of the middle and lower classes whenever it observed that men of the same race, the same creed, the same community, were maltreated by their equals and were held in a subjection not corresponding to their education and merit. All class struggles of the past have arisen from these sentiments. The greatest politicians and popular leaders of all times, as well as the greatest kings and Cæsars, placed themselves at the head of movements which, originating in oppressed, abused and maltreated classes, aspired, successfully or otherwise, to a removal of unjust social conditions. These class-struggles have often been only for political rights, for honors, or for marriage rights. The essential element, however, was always an economic question, the distribution of incomes and wealth or the conditions and avenues to them, the possibilities of acquisition; for in the social struggle for life, economic existence is the most important factor.

And therefore the question always arises here also, whether that which is, is just. Is this restriction of trade,

this or that institution touching the distribution of wealth, is this entire distribution of incomes just?

This question, indeed, is not always equally emphasized; the feelings which spring from the answer do not at all times equally influence the masses and single parties. The judgment, that a certain classification and distribution of incomes is just or unjust, is of course not the only one that is given about the social phenomenon in question. Nor is this judgment, even though thousands are agreed upon it, the only power which rules the distribution of incomes. But this judgment is the only psychological basis from which all demands for the right of equality have arisen. It is the basis of all individualism. From the standpoint of mankind there may be other demands; mankind and its interests demand sacrifices in the upper as well as in the lower ranks. The practical representatives of this standpoint in political life must, therefore, necessarily seek to combat or to weaken the conclusions resulting from this fundamental principle of individualism. And from their standpoint they are justified in so doing. But equally justified on the other hand is the standpoint of individualism; and it is this which demands justice, proportionality of duties and rights; it demands equality for equal, inequality for unequal men. The principle of civil, political and social equality will never have a firm foundation unless one seeks it in this connection. Every limitation of the principle of equality, other than that which is prompted by the qualities and merits of men, is arbitrary. Material justice demands equal rights only in so far as it observes equal qualities, as it presumes the possibility of equal achievement and fulfillment of duties.

II.

Thus the approving or disapproving judgment of the justice of human actions or institutions always rests on the same psychological processes. But the results to which it comes may be very different. How would it otherwise be

possible that the conceptions of justice of barbarians, of heathens, of Christians, of men of modern culture, differ so much that something different is always demanded under the plea of justice? Even within the same nation and the same period the controversy as to what constitutes justice will never cease; but from time to time certain judgments will succeed in placing themselves in the dominating centre of the progressive movement, certain results of former intellectual contests will descend to posterity as a secured inheritance; and as long as the night of barbarism does not break in again they will rule and influence it more and more.

If we now try to explain somewhat more fully the psychological processes in question, the first step always seems to be to group in our conceptions a number of men into bodies of moral community. These bodies are then compared and tested according to their qualities and actions. The equalities are searched for and found by the judgment, the inequalities and their degrees are tried by the estimating and valuing sense. It is in the realm of the feelings in which all the final decisions on this most important point are reached. All feelings finally resolve themselves into an adjudging or disparaging, into an estimation and a sensation of that which furthers and that which impedes us; they are decisions on the worth of men and things. And upon this now follows finally the simple logical conclusion: the persons whom I am to conceive as a moral community must, as far as human intervention reaches, be treated equally in the measure of their equality, unequally in the measure of their inequality.

The groups of persons into which our conceptions necessarily classify mankind are manifold. The members of the family and the tribe, the fellows of a society and a community, the citizens of a State and of a federation, the members of a church and of a race, finally all humanity in a certain sense can be so grouped, but only in so far as they form

a moral community and pursue certain common ends. Who-soever stands without the group is foreign to the comparison, is not comprised in the judgment of what is just. Hence a barbarian does not think it unjust to kill the stranger; only the conception of a moral community between all nations and all men prevents this. Likewise it does not seem to me unjust that an Englishman pays double the taxes paid by a German of equal income. With the variety of different human purposes and communities the same man appears at one time like his fellows, at another unlike. In a club of any kind which claims but a small fraction of our interest, we see no injustice in a per capita assessment which we would consider unbearable in a State or community. It accords with our idea of justice that all young and vigorous men have an equal duty in the defence of our country, whereas for other public and social purposes they show the greatest dissimilarities, and are accordingly treated differently.

The judgment of equality or inequality is, therefore, always a very complicated one. Not only must the human qualities and deeds be considered *per se*, but also in their relations to the aims of human society. In one grouping and classification we have in view only some one certain well-defined quality of mankind; in another we attempt a weighing of all qualities, we seek the average human being. A shipwrecked party, which has saved itself in a boat too small to carry all, will be apt to value all their companions equally in the question of life and death, and cast lots equally for all. But the provisions which have been saved will be distributed according to the various needs, *i. e.*, the seaman at the oar will be given twice as much as the three-year-old child. In a tribe of warlike nomads the bravest fighter, in the jockey club the best rider, is fairly given a preference which would appear unjust in other groups of men. Even in the family and in the State a certain kind only of qualities or actions often forms the basis of judgment. The judge on the bench cares only for certain wrongful acts; the

father who wishes to bequeath the same to each child, because he thinks this just, will not deny their dissimilarity in many respects. The State, however, will distribute honors and dignities in the nearest possible relation to the average of qualities most important to it. Every election, every promotion is governed by an average of composite impressions. The judgment upon a just or unjust distribution of wealth and income will always rest on a similar basis.

Whether it be a single quality or action, or a sum of them, those which are considered are such as relate to the aims and ends of the community. And they may naturally be of the greatest variety, may include, for instance, even physical strength or beauty. In an athletic club it seems just to give a prize to the strongest man, in tableaux vivants to favor a beautiful woman. As a rule, however, in social bodies of a higher order those qualities are to be considered which, like virtue and talent, are of the greatest service to them, which manifest themselves in actions advantageous to the community. Often there are very heterogeneous qualities to be compared, as the aims of the great moral communities, especially of the State, are the most various. The question can arise, is the brave general or the great statesman, the great painter or the great singer, of greater universal value? The decision is given by public sentiment according to that classification of purposes which appears at the moment to be the correct one, and following it we find a verdict of the public which declares the salary of a general, of a secretary of state or of a singer to be just or unjust.

Quite as difficult as the comparison of different qualities or acts is the valuation of the inequalities in the same sphere of human action. That the statesman deserves a higher salary than his secretary, that the head of a great firm earns more than his cashier, and the latter more than the youngest clerk, that the designer in a factory is more important than the porter—in all this, public sentiment and valuation

agree. But when the grades of inequality are to be measured and to be expressed in figures, which is indispensable in all the practical questions, there will be many differences of opinion; and from this point of view indeed the opinion might be upheld that the psychological judgments which form the foundations of the conceptions of the just are always a chaos without unity and clearness. The objection which we so often meet on the field of æsthetic judgment seems obvious, that there is no general judgment, that all is a matter of individual taste, that mere individual processes of feeling are in question, which are immeasurably entangled, and which a fool alone could regard as a basis of public affairs and institutions.

This would in fact be true, if the individual thoughts and sentiments of men were, indeed, only the product of independent and isolated individuals. But every disposition of mind, every word, every idea, every conception, more profoundly examined, is the result not of an individual, but of a social process. The greatest genius even thinks and feels as a member of the community; ninety per cent of what he possesses is a trust conveyed to him by forefathers, teachers, fellow-creatures, to be cherished and bequeathed to posterity. The majority of everyday persons are little more than indifferent vessels into which flow the feelings and thoughts of preceding and contemporary millions. Language is a product of society. By means of the spoken word, Herbart says, thought and feeling pass over into the mind of another. There they originate new feelings and thoughts, which forthwith cross the same bridge, to enrich the ideas of the first. Thus it happens that the smallest part of our thoughts originates in ourselves, and that we draw, as it were, from a public storehouse, and participate in a universal generation of thoughts to which each individual makes only a comparatively scanty contribution.

Supposing for the moment that the feelings on which the estimating judgments of what is just are founded, remain

wholly in the obscure realm of mental temperaments, even in this stage they are not a psychological chaos, but a rhythmic movement of masses. And the more they rise to judgments and standards of valuation, the more the mental temperaments are condensed through the medium of public discussion, to decisions which possess distinct characteristics and criteria, the more we have before us mass-judgments which are not quite uniform, it is true, but still classed according to masses, grouped according to centres and authorities, and which are clear, firm and generally admitted. On account of the same qualities, in regard to the same purposes, they give the same results again and again and become the ruling standards of valuation.

Every period has prevailing conventional standards of valuation for human qualities and deeds, virtues and vices; it conventionally values this kind of action more highly than that, and so demands accordingly in one case greater rewards or greater honors, in another severer punishments or smaller incomes. These conventional standards of valuation are more or less the starting-point of every judgment of justice. A new and changed conception is measured in the first instance by its deviation from the traditions. As every fixation of price in society is not anew the result of demand and supply, but as demand and supply only try to modify traditional values, so it is also with the valuing judgments of justice or injustice. The sum of that which has been handed down as just, invariably forms the real basis of all judgments. A refined intuition of right demands a change here and there; in opposition to the sum total of conceptions of the just, this is only a single, but an important point

In existing customs and in existing law, these conventional and traditional standards of valuation have their real bulwark; thus they have assumed a form which firmly, rigidly and uniformly governs wide circles of mankind, and in that well-defined form they are handed down from generation to generation. But they also can be found outside of this solid

ground; they originate everywhere from repetitions of similar cases and form the basis of judgments of what is just. These judgments, indeed, arise daily and hourly in the mind of every thoughtful man in regard to all social relations of life; they are not confined to actual law. In family life the sister thinks it unjust that the brother is favored; in every social circle, visits, invitations, even smiles, looks and compliments are resented as unjust preferences. The mental processes are the same whether here or on the ground of actual law. Everywhere it is in the main traditional standards which govern our judgment. These traditional and conventional standards are the historical precipitate of the conception of justice of hundreds of millions of men, on whose shoulders we stand. Through these traditions the seemingly irregular, the casual and individual takes firm body and lasting form in spite of constant transformations and renewals.

From this standpoint we can easily refute the naive objection that there is no way to apply the conception of the just to economic matters, because, it is said, incomparable quantities and qualities are in question, the different kinds of work, the functions of the employer and the day-laborer being immeasurable by any common standard. They forget that the formation of prices in the market equalizes that which is seemingly incomparable, as, for instance, an edition of Goethe and a bottle of champagne; that in every penal code two things which appear to be still more heterogeneous, a fine of so and so much money and a day's imprisonment are in a fixed ratio according to a conventional standard. Everywhere in the questions of prices and of law the traditional and conventional judgment, that this is to be called equal and not that, is fundamental. Only should we have to begin every moment to form our judgments anew would this objection be reasonable. As things are, the fact remains that the average earnings of the employer, compared to the wages of the laborer, can be raised or lowered by a change in demand and supply within such an economic organization

as exists to-day; that independently thereof, in consequence of traditional standards on the one hand and of the modern sentiments and ideals on the other, this change, as soon as it has reached a certain extent, will appear just or unjust.

And whenever these and similar questions are discussed, when opinions differ about them, the controversy is not, as a rule, between those who wish to apply the categories of justice to these phenomena, and those who deny their applicability; but the struggle is between older and traditional standards of judgment and new ones, the ideals of the eighteenth century with those of the nineteenth; the struggle is between a cruder conception of right and a more refined one, between ideals whose realization is to-day impossible and those that are attainable through the customs and the law of our age; finally ideal conceptions of justice which have already been co-ordinated with other not less justified ideals are arrayed against those which have chosen principles of justice exclusively for their battle-cry.

And just because this struggle never ceases there is, as we have seen above, no simple, universally intelligible, familiar and applicable formula of justice. The conceptions in question may all be reduced to this fundamental idea: everyone according to his merit, "*suum cuique*;" but the possible application of this rule is always different according to the possibility of innumerable conceptions of value, estimations, groupings and classifications. The abstract pretension, for example, that in labor or even in handiwork rests the unique standard of justice is in equal right with the other pretense that talent, virtue or even the human face must be taken into account. In certain spheres and in respect to certain aims only will one formula or the other gradually prove its justification and thus gain recognition.

But what is it that gives the final decision in this contest of opinions? Is it logical reasoning? Apparently not, or at least not primarily. Much as in the struggle for public and social institutions, all kinds of logical reasons for the

justice of a cause are appealed to, they seldom convince and always seem more or less flat. At least they do not convince the opponent, although they are capable of inciting their followers to enthusiastic and desperate struggles. And this is natural. They are not logical decisions. Whether they be traditional standards of valuation, whose immemorial age or even divine origin impresses our spirits or newer conceptions, which by the power of passion inflame the disciples of a school, a party, the members of a class or a people, the final decision rests with the heart, with the innermost centre of human soul and mind.

This explains the vast possibility of error, of delusion, of vehement passions. Ideals of justice may appear in the most distorted forms, in its name the most insane as well as the highest and holiest things are demanded. Long struggles are often necessary to purify concepts of their errors and to develop the ideal in its purity. But at the same time the inward connection between the conceptions of the "just" and the depth of human emotions explains the magic power of their effect. That which moves the inmost heart dominates the wills, the egoism, inspires deeds of valor, carries away the individual and millions to deeds and sacrifices. Hence the mystery that a political platform, an economic contrivance, only influences where it seems an outcome of justice. Hence the involuntary tendency to appeal to justice in every discussion. Hence also the fact that the same theory which proposes a demand of justice as its consequence often is made by individuals, but repudiated by public opinion; and then suddenly with irresistible elementary force it takes hold of the masses, leads them on new paths, radically influences legislation and puts a changed stamp on whole epochs.

III.

Let us return from discussing the psychological aspect of the question, to the main substance of our discourse, which we have hitherto only grazed, or touched upon by way of

illustrations. We have now to inquire whether the distribution of income and wealth is felt to be just or unjust at all and under what circumstances and conditions.

If we confine ourselves to the strictly philosophical reflections of ancient and modern times, there scarcely seems to be any controversy about the question. From Aristotle's doctrine of justice in distribution to the philosophers of to-day, there is controversy over the practical effect of the judgments in question, but hardly over the judgments themselves. Among more recent thinkers—only to mention a few—Herbart conceives the penal system and the economic conditions of a nation as a united whole; what elsewhere is called justice he denominates as equity. On equity his so-called system of wages, which comprises the economic conditions and the penal law of a nation, is built up; the judgment requires recompense for benefits and retribution for misdeeds. The conceptions of the wage system must, according to Hartenstein, be applied equally to benefits and misdeeds. "The general idea must be maintained, that the social institutions and actions should be capable and fitted to requite equally merit and offence." And Trendelenburg, in a similar fashion, affirms that the moral estimation of political and economic affairs is, at bottom, derived from the same standpoint. "Indeed," he says, "in the structure of the State the constant proportion between duties and rights is the fundamental idea of justice, and the same proportion between labor and earnings should be aimed at in private intercourse, but the market price makes the exponent so variable, that it causes a constant inequality." The execution thus seems dim to him; but it appears to him the ideal condition, that labor and earnings should accord, as duty does with right.

There is no doubt that this conception is confronted by another which results from the investigation of details, which is not the outgrowth of popular instincts and sentiment, and is even often involuntarily denied by its very representatives, but through the authority of certain doctrines has become

nevertheless of great importance for practical life. I mean the conception which sees in the difference between rich and poor only an occurrence of nature. In the investigation of the immediate causes of the distribution of wealth, this conception is not able to discover the remoter causes. It sees only demand and supply, proportions, natural phenomena, climatic influences, the accidents of life and death; all these are unquestionably mechanical causes which influence this or that distribution of incomes. The earnings of the individual, it is said, are determined by the "strength and the luck of the individual." Free intercourse appears as the analogy of the Darwinian struggle for existence. Might makes right; purposes and moral judgments are not here in consideration, or only to a limited extent. So far as mankind demands a just distribution of incomes, their ideas are in the main foolish; justice may at the most be demanded of the State when it intervenes directly; opposed as it is to free intercourse and the legitimate influence of fortune, this striving is wrong. "Shall we," we hear from this quarter, "censure our God, that He so frequently interferes unjustly? Shall we prescribe to Him where His lightnings shall strike and where He shall permit the bullets to hit? Shall we quarrel with nature because she grants the delicious fruits of the south and an olympic existence to one race, while she banishes another to the reeking hovels of the arctic?"

We will not dismiss this conception of things by the accusation of materialism, for, though materialistic, it nevertheless has the merit of being realistic and of having further detailed investigation in certain directions. But whatever its merits in this direction, our question is not really touched at all by these arguments. The individual scholar who, in his researches, considers only forces, proportions, demand and supply, and endeavors to grasp them, may ignore the question whether the result be just, but the popular mind will always repeat the question as long as it sees before it human actions.

But only to this extent and always to this extent; and furthermore the uncertain results of fortune and the course of natural processes also will appear just or unjust to him who believes that they are governed by a just Providence ruling analogously to human actions; may the compensation only occur in another world, it is expected and demanded by the soul.

When on the other hand the intellect sees but blind forces, it consoles itself with the argument that it is not the task of humanity to master them; then he will no longer demand justice from the flashing lightning, from the hostile bullet. from the demon of cholera and the sunny zephyrs, but always from all conscious actions of human beings.

The distinction is therefore not, as has been claimed, between State and chance, State and free intercourse, governmental distribution and distribution by demand and supply, but the antithesis is this: As far as human action governs and influences the distribution of incomes, so far this action will create the psychological processes whose final result is the judgment which finds the distribution just or unjust; so far as blind extra-human causes interfere, reasonable reflection will demand that men should submit to them with resignation.

If it is objected that demand and supply distribute incomes, we reply in the first instance: Are demand and supply blind powers independent of human influence? This year's crops depend on rain and sunshine, but the average results of our crops are a product of our cultivation. Demand and supply are summary terms for the magnitudes of opposing groups of human wills. The causes and conditions of these magnitudes are partly natural, mostly, however, human relations and powers, human deliberations and actions.

If it is objected that nature conditions the wealth of a nation, we answer: She certainly does in part, and as far as she does, no one thinks it unjust that one nation is rich

and the other poor. But when one nation enslaves, plunders and keeps in subjection another, we immediately find the wealth of the former and the poverty of the latter unjust.

If it is objected that the one man is wealthier than the other because he was not compelled to divide his inheritance with brother and sister, that the one has the good fortune to possess a healthy wife, the other not, we answer: No normal feeling of right wishes to do away with such chance of fortune. But the question is, if such effects of nature, not subject to our influence, which we call fortune or chance, are indeed the essential causes of the distribution of incomes and wealth. In such a case there could be no science of political economy or social policy, for the irregular game of chance cannot be brought under general points of view.

If it is objected that labor and not the State distributes incomes, we answer that this is a surprising objection in the mouth of one who declares strength and fortune both at the same time to be the causes of distribution. For the objection has meaning only when it signifies that different labor and different accomplishments produce correspondingly different compensation. In our eyes, labor produces goods, builds houses, bakes bread, but it does not directly distribute incomes. The different kinds of labor will affect distribution only by their different valuations in society. The demand for this or that labor will influence its market price, but the moral valuation of this or that labor will influence the judgment whether this price is just. Thus labor influences, indirectly it is true, the distribution of incomes; but in such a case, and so far as it does so, it excludes the notion of luck or chance.

Both assertions, however, confine themselves too closely to the individual distribution of incomes, whereas for the economist the essential point is the distribution among the classes of society. For every more general scientific or practical inquiry it is not the important point whether Tom,

the day laborer, has more than Dick or Harry, whether the grocer, Jones, earns more than Brown, whether the banker, Bleichröder, has better luck in his speculations than the banker, Hanseman; about this general judgments will only occasionally be formed. The average wages of the day laborer, the average condition of domestic workers, the average profits of the class of promoters, the average profits of grocers, of landed proprietors, of farmers on the other hand are considered by public opinion and judged to be justified or not. And these earnings are surely not dependent on fortune or chance; they are the result of the average qualities of the respective classes in connection with their relations to the other classes of society; they are in the main the result of human institutions.

The prevailing rights of property, inheritance and contract form the centre of the institutions which govern the distribution of incomes. Their forms for the time being determine a democratic or aristocratic distribution of wealth. Who, for instance, has made the division of landed property, which generally determines the distribution of both wealth and income? Is it nature, luck or chance, or demand and supply? No, in the first place the social and agrarian institutions of the past and present. Wherever small peasant proprietorship prevails to-day, it is derived from the mediæval village community system and the law of peasant succession. Wherever we meet with a system of large estates we see a result of the baronial and feudal system, of the later manorial regime and of the system of estates; at present the institutions of mortgages and leases play a part; the legislation touching the commutation of tenures and system of cultivation were of the same importance to Germany as the colonial system of other governments to their colonies. In the distribution of personal property individual qualities are more prevalent than in that of real estate. But nevertheless the institutions of ancient and modern times seem to us the most important. The forms of undertakings and the

legal status of the laboring classes are the essential points ; wherever slavery prevailed it governed at all times the whole economic life, the whole social classification and the distribution of incomes; guilds were, at the time of their consistent maintenance, as much an institution of distribution of incomes as an organization of labor; and the same is true of the domestic system of industry of the seventeenth and eighteenth century with its governmental regulation; the ruling considerations were the needs of commerce and technical practice on the one hand, the situation of the laborers in a domestic system of industries on the other. And are not to-day the institutions of unrestricted trade and interest on loans, of the exchanges and the system of public debts, the forms of undertakings, the system of joint stock companies, of co-operative associations, the unions and corporations of employers and laborers, all labor law, the institutions of friendly and similar societies the material foundation and cause of our present distribution of incomes? The individual causes and the chance of luck effect within the bounds of these institutions the little aberrations of personal destiny; the position of social classes in general is determined by the institutions.

What are economic institutions but a product of human feelings and thought, of human actions, human customs and human laws? And just this causes us to apply the standard of justice to their results, just this makes us inquire whether they and their effects are just or unjust. We do not require the distribution of incomes or wealth to be just absolutely; we do not require it of technical economic acts which do not concern others; but we do require the numerous economic acts which on the basis of barter and division of labor concern others and entire communities to be just.

Where such acts come into consideration our observations discern moral communities, their common aims and the human qualities, which are connected with these aims.

The most primitive barter is impossible, unless, between the parties practising it regularly, a certain moral understanding

exists. There must have been an express or silent mutual agreement to preserve peace. The barterers must have common conceptions of value, must recognize a common law. Every seller forms with the purchaser, who stands before him at the moment of the transaction, a moral union of confidence.

In epochs of primitive culture, in the social communities of families, of kinship, of tribes, of leagues, there exists an uncommonly strong feeling of solidarity which therefore leads to very far-reaching demands of justice within these circles, as well as to a complete obtuseness of the same feeling beyond them. With a higher degree of culture these small communities lose, the individual and the greater communities gain in importance. Now the individual and now the community appears more in the foreground, and accordingly the consciousness of the community of interests will change in intensity. In the periods in which the individual's or the family's technical economic life still forms, without more extensive intercourse, without more elaborate division of labor, the centre of gravity in economics, the feeling of community in economic matters will recede. The further the division of labor progresses, the more inextricably will the threads of intercourse involve the individual in an insoluble social community, the more the whole production will assume the character of a general, not an individual concern. Then the common functions of the local and the national community will thrive, individuals will be more and more dislodged by social leaders. Every larger undertaking, whenever it unites continuously a certain number of men for a common economic purpose, reveals itself as a moral community. It governs the external and internal life of all participants, determines their residence, school, division of time, family life, to a certain degree their mental horizon, education and pleasure. The relations of those concerned necessarily exchange a merely economic for a generally moral character. And therefrom the conception arises; here a

common production exists, hence a moral community. And that leads to the question: Is the relation between the participants, is the division of the products a just one? And similar considerations follow for whole industries, for whole social classes, and this all the more, the more frequently the employers and the laborers are organized into associations and societies. They also result for whole States and unions of States.

The moral communities, which play a part in economics, follow sometimes purely economic purposes, sometimes other purposes, as above all do local communities and the State. The narrower their circle, the simpler and clearer their purpose, the more evident become the qualities, according to which moral judgment compares and classifies men. The more comprehensive they are, the more manifold their purposes, the more complicated becomes the question which qualities are concerned, the more fluctuating becomes the judgment of what is just, the more indispensable for customs and laws become conventional presumptions and standards in order to attain something definite at all.

In times of primitive culture, in the small circles of economic and moral communities all men, or at least all men able to bear arms, may readily appear equal, and so it there appears just to give each the same allotment of land, the same share of booty. The guild sought to secure to each member as nearly as possible an equal share of profit. With higher culture begins the necessary discrimination. Formerly the greater allotments were often given to the bravest soldier and to the noble families, distinctions now become more general. All inherited preference is considered just, in the measure in which public sentiment values not the qualities of the single individual, but of families as a whole, a conception which decreases more and more with higher culture. Inherited wealth, as long as it appears necessarily and obviously coupled with its possessor, is under some conditions regarded as a just standard of the distribution of goods. So

the distribution of public lands according to the possessions in cattle and real estate appeared quite just to many a day laborer and "kossaeth" in the eastern provinces of Prussia, while to one who knew the public land systems in France or southern Germany it seemed an outrageous injustice.

For all community of production, labor is the most obvious standard; hence perhaps it is the most usual, most generally comprehensible. As soon as it becomes necessary to compare many different kinds of labor, only an abstraction totally foreign to public sentiment will conceive the idea of reducing all this labor to mere quantities of handiwork; natural public sentiment will simply value more highly the labor which requires more education or talent.

Those qualities will always be most highly considered which serve the common objects; those which only relate to the individual and his selfish aims are less esteemed. Only a complete misconception therefore could establish individual needs as a standard of distributing justice. Older socialism wisely held aloof at all times from this aberration. Even the first really social-democratic platform in Germany, that of Eisenach of 1869, did not yet venture to commit such a folly. The progressive victory of vulgarity and rudeness first demanded in the Gotha platform of 1875 the division of the aggregate labor products among individuals according to their "reasonable needs." The proviso of reasonableness was intended to prevent excesses; it does not remove the low conception. With his needs a man serves himself only; with his labor, his virtue, his accomplishments, he serves mankind, and these determine the judgment which esteems them as just.

When the great social communities which follow the most various interests and what is just in them are concerned, the attempt will always be made, more or less, to weigh the different qualities and accomplishments of men in their result and in their connection with the objects of the community.

Talents and knowledge, virtues and accomplishments, merit in short is considered. Moral qualities are often apparently overlooked, great talents whose achievements and deeds are generally visible are apparently over-estimated. But only because one is more noticed than the other, and the moral judgment which values individuals according to what they are to the whole can naturally only judge by what it sees.

And therein lies the contrast between moral and economic value. In the ordinary economic valuation activities and products have value in the same measure, as individuals covet them for the satisfaction of their personal needs. In the moral valuation, on which the judgment as to justice depends, the activities of individuals receive their value, according as they serve the inherent ends of the whole. True justice, says Ihering, is a balancing between consequences and acts, which is weighed equally to all citizens according to the measure of the value of these acts to society. Both valuations go in life side by side, combating and influencing one another. The one rules the market, the other moral judgments and conceptions. They approach each other as mankind grows more perfect. Through what mechanism the arising conflicts are lessened and mitigated, we still have to discuss.

IV.

If in the economic order we could recognize only the ruling of blind forces, of selfish interests, natural masses and mechanical processes, it would be a constant battle, a chaotic anarchy; it would present the "*bellum omnium contra omnes*." That this is not the case was perceived by those who saw in the exertion of egoism the only motive force of economic life; they helped themselves over the inexplicable conclusion that out of the blind struggle of selfish individuals peaceful society should grow out, with the ideal conception of a pre-established harmony of forces as in the conception of Leibnitz. And yet any impartial glance at life tells us

that this harmony does not exist, but that it is striven for slowly and gradually.

No, harmony does not exist *per se*; selfish impulses combat each other, natural masses tend to destroy each other, the mechanical action of natural forces interferes relentlessly still to-day; the struggle for existence is to-day still carried on in the struggle of competition; the buoyancy of individual activity has even with the noblest and most distinguished men a flavor of egoism; with the masses it is, inwardly curbed indeed by the moral results of social life, the potent cause of most actions. While struggle and strife never cease they do not preserve the same character throughout the course of history. The struggle which ended in annihilation, in subjugation, turns into a peaceful contest which is decided by an umpire. The forms of dependence grow milder and more human. Class government grows more moderate. Every brutal strength, every undue assertion of superior force is made punishable by law. Demand and supply, as they confront each other in the different systems of custom and law, are quite different in their result. In short all emanations of egoism are moderated, regulated and restrained by the moral cultivation of the labor of many thousand years. That this is so is the simple consequence of those ideal conceptions which originate in social life, form the centre of all religions, all systems of social ethics, all morals and all law. And in the realm of these ideal conceptions the idea of justice, if not the first and only power, is none the less one of the most important. Others of equal might are grouped with it. Aside from the idea of God, of immortality, of perfection and of progress, the idea of justice which gives each one his share, is confronted in the field of social policy by some other ideas. These are in the first place the idea of community, which allots to the whole that which belongs to it, which regards the promotion of the whole more than the rights of the parts; in the second place the idea of benevolence, which in its consciousness of community gives more to the poor

man than he can justly demand; finally, the idea of liberty, which permits each part to act freely, placing numerous limits upon justice and the community. That this results in many restrictions upon the exercise of justice we will here only suggest, not demonstrate. But the fact always remains that the constantly growing and developing conceptions of justice extend their influence daily and hourly into the activity of practical life, that in the form of moral and religious sense of duty, social custom and actual law, they regulate and modify rude forces and selfish impulses. The conflict between interest and moral ideas will of course never cease, but only be moderated. All human life only exists under the presumption of this never ceasing internal combat. There are always claims of economic justice which appear to be only bold ideal dreams; but there are always many which have conquered in life, or at least have obtained for themselves the majorities, the leading powers. And to them the more refined economic culture owes its humane character.

Practically the most important form in which these ideas conquer is that of custom and of law. Without these formal means the conceptions and judgments of justice cannot easily be realized, cannot easily be transmitted from generation to generation. Custom and law lend permanence and stability to ideas of morality, and effect the agreement of men about that which ought to be. From the moral disposition of men arise rules of custom, which as distinct rules of life curb the wild play of passions and impulses. Custom is that which we regularly practice, originating in experience and recollection, in the judicious conception of common purpose and in moral reflection. As crude as custom may originally be, its rule is always an improvement in comparison with the purely natural play of instincts. It appears to the growing generation the appropriate, necessary, just and obvious condition of all intercourse, all division of labor, all social existence. As an independent power it confronts the individuals and their impulses and becomes the

foundation of all morals, all religion, as well as all rights and all institutions.

Originally inflexible and relentless in itself, custom later becomes more variable in individual morality, adapts itself to conditions, though it still exacts the more noble and sublime; in the positive law, which is gradually separated from custom, it becomes a rule, demanding less, but for this "less" a much stricter obedience. Custom in higher stages of culture only prevails through fear of reproach, of contempt, of social ostracism. Formal law only chooses the rules of social life most important for common interest, but enforces their observation, when necessary, through the physical compulsion which the whole can exercise over the individual.

Internally of the same nature as morals and custom, *i. e.*, originating equally in social ideals and primarily in the idea of justice, the law adopts through its external, formal nature the character of something independent, in consequence of which independence the law can only uphold justice within its own range and can only execute it in a certain sense.

To the essence of right and law, as it has been evolved from religion, morals and customs by an experience of many thousand years, belongs above all the uniform and sure execution of the rules which have once been confirmed universally and uniformly. Without uniform application, without a sure administration, law does not remain law. To achieve this is extraordinarily difficult, on account of the manifold complexity of life. The goal we can only reach by limiting ourselves to that which is of the most importance and by long, laborious, logical brain-work, which reduces the rules of law to a few clear and universally intelligible sentences. The exercise of the judicial power is raised by this quality above the level of personal feelings and changing disposition, laws are guided by it to a safe and uniform application. The more severely law interferes, subordinates details, proceeds radically and relentlessly, the more important

this formal criterion grows. The uniform and just application of law becomes so important that the imperfect law whose just application is secured is preferred to the more perfect and materially more just law whose application varies, becomes uncertain and thus unjust everywhere or in the hands of judges and officials of to-day. Nearly all positive law, therefore, and especially written law, which the thinking mind generates by the machinery of legislation, which has not as customary law been derived from use, is inflexible, feeble, confined to outward, clearly visible marks; it cannot regard individualities and their natures, it deals with rough averages. Instead of testing individuals, for example, it divides adults and minors according to a fixed age, approximately correct for the totality, but more or less arbitrary in regard to the individual. It calls all adult men to the polls, not because they are really of equal importance to the commonwealth, but because the application of every more complicated distinction would result practically in greater injustices. Thus law becomes often inequitable and materially unjust, not because formal justice is superior, but because it is more easily attained in the existing stage of civilization. This gives rise to thousands of conflicts between material and formal justice, which are so often decisive for the practical questions of distribution of wealth and incomes.

If there is any demand of justice which it is desired to introduce into our institutions through the channel of ordinary reform by positive law, it is not only necessary that the demand be recognized and desired by the best as right, that it must have become custom in certain places, that it must have overcome the resisting powers of egoism, of listless indolence which clings to tradition, that it should have triumphed over the eventual obstruction of the other ethical ideas, which tending toward other goals, often may be an obstacle, that it should have become a dogma of ruling parties and statesmen. No, it must also have evolved the qualities of a practicable formal law, it must have reached

fixed boundaries, clear characteristics, determined qualities and proportions; it must have traversed the long journey from a conception of right to a clearly defined and limited provision of law, the fundamental judgments of value must be condensed to a fixed conventional scale, which, as a simple expression of complicated and manifold conditions still grasps their average justly. In short the mechanism of positive law limits every execution of material justice. We have our formal right only at the expense of a partial material injustice.

A demand of justice in rewarding great inventors can to-day only become positive law in patent legislation, or in the public arrangement of a system of premiums, in which the method of execution is just as important as the principle. A demand of justice in regard to a progressive income tax can count upon sympathy only when the demand is based on definite figures which correspond to the average feeling of right of to-day. The demand of justice that the employer should provide better for his laborers becomes practicable, when we demand in detail and definitely that the employer carry this or that responsibility for accidents, that he put such and such a contribution into the benefit fund, that he accept the verdict of umpires with regard to wages. That the laborers should share in the profits of the enterprise can be discussed as a legal measure only when definite experience shows the possibility of a just execution. Otherwise such a law, like many other well-meant propositions for the improvement of the condition of the lower classes, would, in consequence of the violation of formal justice, lead to arbitrariness, to favoritism, to the discontent of the classes concerned. This is confirmed by all deeper knowledge of the results of the administration of our poor laws. The poor law is the most important piece of socialism which the German social organization contains. It is a piece of socialism which we could not spare for the time being, because we do not know a better substitute, nor yet how to

meet otherwise by more perfect institutions the inevitable demand of justice, that every fellow-being be protected from starvation. The drawback of this poor law is the absolute impossibility of enforcing it in a formally and materially just way. Arbitrariness, chance, red tape govern it, and therefore the assistance given has in many cases such unfavorable psychological effects, leading to laziness and indifference. As long as the organs of the administration do not reach a far higher perfection, as long as the formal possibilities of execution are not quite different, most socialistic experiments would only extend the consequences of our poor laws to large areas of our social and economic organization.

But we must never forget the distinction between means and ends. The form of the law is the means, justice, however, the end. We may perceive that laws cannot do away with every immorality, cannot effect a strictly just distribution of incomes; that the ingenious tricks of astute and selfish business men flout all decency, and find ways to slip through the meshes of the best laws. But this must not restrain us from working for justice, and from faith in its victory. Although thousands of injustices are bound to occur in our life, our best possession rests on the idea of justice. All social progress depends on further victories of justice. By demanding a just distribution of incomes, socialism has introduced nothing new, but has in contrast to the errors which were created by materialistic epigones in a short period of so-called philosophy of enlightenment, only returned to the great traditions of all idealistic social philosophy. The error of socialism was simply that it overlooked the difference between material and formal justice, as well as the significance of other equally justified social ideal conceptions; that it imagined the individual conceptions of certain idealists of what is just, would suffice to overthrow suddenly and immediately primeval institutions. With its crude excrescences it returned to standards of justice which perhaps correspond to the first stages of civilization, certainly

to rough views, but not to refined conceptions of higher morality.

Socialism can teach us not to demand a false justice; it should never hinder us from fighting for a true justice. History tells us that progress has usually been tedious; it shows us just as much that at length the greatest formal difficulties have been overcome; that especially in the great epochs of faith in ideals which rejuvenate and ennoble men, the juster right, the refined morals have triumphed over the powers of egoism, of sluggishness, of stupidity, and now better and juster institutions have grown up. There was a time when the demand for a just system of trade, which is universally conceded to-day, appeared as an ideal far in advance of the times. Robberies, thefts, frauds, brawls in the market-places, extortions of gifts were the older forms of transferring property. Here a thousand years' work in civilization has developed, in connection with the progress of refined conceptions of justice, the institutions of law, which to-day govern and bind all intercourse as a matter of course.

The leading conceptions in this work of civilization in the past and present do naturally not relate to the whole society and all its purposes, nor to all qualities of men. In every ordinary barter two persons, whose other qualities are not concerned in this relation, which is confined to this one barter, meet with the purpose of advancing their mutual interests by the exchange of certain goods. This result is reached if they exchange values essentially equal, if both sides make equal profits. "The giving and the taking," Herbart says, "everywhere presupposes compensation, *i. e.*, equality of the given and the taken." Concerning the standards of equality only, can there be any dissent. The savage sees equality in purely external circumstances, in the fact that the furs just fill the kettle for which he trades them. The civilized man asks for equality of money value, the formalist for the equal absence of fraud, force and error. The principle

however, always remains the same. Equality measured in some way is required. And if the equality of both sides required by the conventional standard exists, justice is secured because the logical judgment and the moral test does not bring the single agreement into relation with the total distribution of incomes, with the total worthiness of the persons. Only a fool could require as a demand of justice, that the grocer grade the price of a pound of coffee according to the wealth of each customer, or that in a publishing contract the publisher should pay to the author of an unsalable scientific book a large sum because it is a work of great labor and skill. The justice of a single bargain is the so-called exchanging justice, as Trendelenburg in his admirable essays on Aristotle has proved to be the real meaning of the great Stagaryte. This exchanging justice is nevertheless not in strict contrast to distributive justice; it is only one of its subdivisions, which concerns not the whole society and all its purposes, but simply a part of them and an especial purpose.

As long as the value of every good thing is a different one for each man, so long a certain inequality of profits will not seem unjust. Only when this equality oversteps certain bounds, when its cause is not the free decision of a free man, does a lively feeling of injustice arise and seek a legal remedy. For thousands of years the selfish impulses of those who in the social struggle of competition are the stronger, have demanded unconditional freedom of contract; and this demand is always opposed by public conscience and the demand of the weaker, which establishes the conception of *justum pretium*, which requires a governmental regulation of prices, statutes on usury, consideration for the "*læsio enormis*," public control of abuses in trade and traffic, a restriction of exploitation. This requirement disappears only when two real equals meet, who as a rule derive equal benefit from their commercial relations.

The older economic school of Adam Smith, as we suggested in our introduction, had found its ideal of justice

exclusively in the freedom of contracts. Presuming that all men are by nature equal, it demanded only freedom for these equal men, in the hope that this would result in agreements about equal values with equal profits for both parties. It knew neither the social classes nor the social institutions in their significance for economic life; for it the social mechanism was composed exclusively of the activity of individuals and their single agreements. And therefore it could not demand any other kind of justice. This was not wrong, but it was only a part of the "just" which it demanded.

We demand to-day above all, besides a just system of barter, just economic institutions, *i. e.*, we demand that the complexes of rules of morals and right which govern groups of men who live and work together should harmonize in their results with those ideal conceptions of justice which on the basis of our moral and religious conceptions are prevalent to-day, or which are gaining recognition. We do not acknowledge any one of these institutions to be above history, as having always existed or as necessarily everlasting. We test the result of every one of them, and ask of each: How did it originate, what conceptions of justice have generated it, what necessity exists for it to-day?

To be sure we also know how to appreciate the value of the institutions transmitted to us, we know that the sacred traditions of the past fill our mind with awe, that even the form of traditional law has a restraining effect on rough characters, that a lasting condition of social peace is based on the greatest possible restriction of formal breach of law. We admit that institutions must never disappear in form and substance, that nations can never create anything wholly new, but must always build on what exists. In this lasting continuity of the whole we have a guarantee that the struggle for that which is good and just will not expire fruitlessly; though this would always happen, if each generation had to begin this struggle anew, and was not furnished with the inheritance of tried wisdom and justice,

contained in traditional institutions. We admit that every momentary condition of peace in society, as it is preserved by an existing law of property, inheritance and some other institutions, is more valuable than a dangerously unsettling war for a juster law of property and inheritance, when the traditional law still corresponds to the equilibrium of the forces existing in society and to the prevalent ideal conceptions. In this case every struggle for more just laws is for the time being hopeless and vain. It can only harm and destroy. Even the most violent revolution can not replace the mental transformation of men which is the precondition of a juster law. The essential point is always that the forces themselves and the conceptions of justice have changed. Then only can a struggle succeed.

Because this will always be, we do not fear, like the alarmists and the pusillanimous of all times, every struggle for juster laws. And on this account we do not see in every manifestation of the self-esteem of the lower classes a simply outrageous revolt against the doctrine of the natural aristocratic organization of society. Much less should we fall into the mistake of all aged reformers who, because they have achieved something, believe that the world's history should close with them and what they have accomplished. We know to-day that history never stands still, that all progress of history is gained only in the struggle of peoples and of social classes, and that they cannot always be as peaceful as in a nursery. And those who are always ready to dream of a jolly war and its favorable moral consequences should not forget that the social struggles within society differ from wars between nations only in degree, not in kind. Social struggles can likewise favorably affect peoples. I only call attention to the struggles between the plebeians and the patricians. There can be no progress in institutions without certain social struggles. All struggles within society are struggles for institutions, and that for the progress of cultivation the individual will grow enthusiastic, will even sacrifice

his life for that for which classes and parties fight, is so inevitable, so salutary that now and then we do not find fault with breaking the formal law in such contests.

There is no worse delusion than that of the older English economists that there are a number of simple and natural legal and economic institutions which have always been as they are and will always remain so; that all progress of civilization and wealth is simply an individual or technical one; that this is simply a question of increased production or consumption which will and can be accomplished on the basis of the same legal institutions. This faith in the stability of economic institutions was the result of the naive overweening confidence of the older economists in the omnipotence of the individual and of the individual life. Socialism then has perhaps over-estimated the significance of social institutions. Historical economics and the modern philosophy of law have given them their due position by showing us that the great epochs of economic progress are primarily connected with the reform of social institutions. The great messages of salvation to humanity were all aimed at the injustice of outworn institutions; by higher justice and better institutions humanity is educated up to higher forms of life.

As little as the social institutions of antiquity have governed modern history, as certainly as slavery and serfdom have vanished, as certainly as all past progress of institutions was connected with apparent success in distributing wealth and incomes in a more just way and in adapting it more and more to personal virtues and accomplishments, as certainly as this increased more and more the activity of all individuals, as certain as all this is it, that the future will also see new improvements in this direction, that the institutions of coming centuries will be more just than those of to-day. The decisive ideal conceptions will be influenced not exclusively but essentially by distributive justice. Institutions which govern whole groups of human beings and

the entire distribution of wealth and incomes necessarily call forth a judgment upon their total effects. Inasmuch, indeed, as single institutions concern only single men and single phases of life, the justice required will only be a partial one. Naturally this is always easy to attain. A just assessment of taxes, a just distribution of the burdens for the improvement of highways, of the duty of military service, a just gradation of wages are much easier to attain than a just distribution of the total incomes and wealth. But an endeavor towards these ends will never cease; all partially just regulations have significance only in a system of the just distribution of the total. And with this we finally come to the question what can be and what should the State do in this matter?

In our view it will obviously not be a body confined to the extension of justice in criminal law, in the jurisdiction upon contracts and further, perhaps, in the assessment of taxes, but ignoring the just distribution of goods. What sense is there in warming up in the legislatures over the hundredth part of a cent, which a quart of beer or a yard of cloth is raised in price for the poor man, when one takes the standpoint on principle, that his wages are to be regarded as something indifferent and remote from all human intervention. Our modern civilized commonwealth indeed cannot remove every injustice, because primarily it operates and has to operate by means of law. But it should not therefore be indifferent to the moral sentiments of men who ask for justice in distributing wealth and incomes for the grand total of human society. The State is the centre and the heart in which all institutions empty and unite. It also has a strong direct influence on the distribution of incomes and wealth as the greatest employer of labor, the greatest property holder, or the administrator of the greatest undertakings. Above all it exercises as legislator and administrator the greatest indirect influence on law and custom, on all social institutions; and this is the decisive point.

The right man in the right place, the great statesman and reformer, the far-seeing party chief and legislator can here accomplish extraordinary things, not directly, not immediately, but through a wise and just transformation of the economic institutions they can greatly influence the administration of incomes and property. Of course, the theory which sees only natural processes in all economic life admits this as little as those who from the standpoint of certain class interests, from conviction of principle, or even from mere shortsightedness constantly recur to the impotency of the State. Statesmen of a lower order also talk with eunuchs' voices of the inability of the State to interfere anywhere; they mistake their own impotency for that of the State. All these adverse opinions forget that the State is and must be the leading intelligence, the responsible centre of public sentiment, the acme of existing moral and intellectual powers, and therefore can attain great results in this direction.

We do not demand that any leading personalities, like a human omnipotence, should control, compare, examine and estimate the qualities and achievements of millions, and accordingly distribute incomes justly. This is a conception of folly which reasonable socialists now abandon. The State can at all times chiefly influence a juster distribution of income by means of improved social institutions. Only in this way is it guaranteed against having its best intentions destroyed by a thousandfold formal injustice. The total of economic institutions will always be more important than the insight and intention of those who for the time being govern in the central administration, be they the greatest of men. Their wisdom and justice can promote and reform the institutions, but cannot take their place. They will prove themselves true benefactors of humanity only by fixing the net result of their labors in lasting institutions, in increasing for posterity the great capital of traditional justice by reforms; and this will secure immortality to their genius and their will.

We are at the end of our inquiry. What is the result? It is the fact that the conception of justice grows out of necessary processes in our soul and necessarily influences economic life. The idea of justice is, like other moral ideas, not imparted to men by some revelation, and just as little is it an arbitrary invention; it is the necessary product of our moral intuition and our logical thinking, and in so far it is an eternal truth, manifesting itself ever new yet ever similar metamorphoses. In many it works only as a vague feeling. In the course of history it develops, for the majority, into clear conceptions, standards and conclusions. According to the laws of his thought man must unify the manifold and then subject it to uniform standards. The supposition of moral communities in society creates the conception of an earthly justice; the supposition of the unity of all things, that of divine justice. It is the same chain of judgments and conclusions which, dissatisfied with the imperfections of earthly things, transfers the last compensation into a higher and better world. The idea of justice is thus connected with the highest and best that we think, imagine and believe.

But as this highest and last never reveals itself to mankind in its full splendor, as we eternally seek it, eternally battle for it, and though ever progressing, never reach it, so the idea of justice has no resting, determined existence on earth. As no penal law, no judge is absolutely just, so no established distribution of property and incomes is altogether just. But every consecutive epoch of mankind has won a higher measure of justice in this field. In custom, law and existing institutions which rule economic life we have the outcome of all the struggles for justice which history has seen for many thousand years.

The value of our own life, of our own time, does not lie so much in what was attained before us, as in the amount of strength and moral energy with which we press forward in the path of progress. Great civilized nations, great epochs and great men are not those who comfortably enjoy their

ancestral inheritances, who eat, drink and increase production, but those who with greater energy than others devote their services to the great moral ideas of humanity; they are those who succeed in propagating moral ideas and in introducing them more deeply than hitherto into the sphere of egoistic struggles for existence; they are those who on the field of economics succeed in securing and carrying through juster institutions.

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[Translated by ERNST L. VON HALLE and CARL L. SCHUTZ.]